

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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APR 6 - 1998

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Access Charge Reform.)	
Price Cap Performance Review)	
for Local Exchange Carriers.)	CC Dockets Nos. 96-262, 94-1,
Transport Rate Structure)	91-213, 95-72
and Pricing. End User Common)	
Line Charge)	

**THE RURAL TELEPHONE COALITION
REPLY COMMENTS TO OPPOSITIONS TO PETITIONS FOR RECONSIDERATION
OF THE FOURTH REPORT AND ORDER**

The Rural Telephone Coalition ("RTC") submits this reply to comments in opposition to the petitions for reconsideration of the Fourth Order on Reconsideration (published January 23, 1997, 63 FR 2094) filed by the Washington State Department of Information Services and Southern Educational Communications Association ("WSDIS" and "SECA").

The RTC is comprised of the National Rural Telecom Association ("NRTA"), the National Telephone Cooperative Association ("NTCA") and the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"). Together, the three associations represent more than 850 small and rural telephone companies. In its comments on the Report to Congress, the RTC stated that the Commission should not expand its interpretation

of Section 254 to encompass support for services that are not provided by telecommunications carriers eligible for reimbursement.¹ Its comments here are consistent with that position.

The WSDIS and SECA petitions are essentially the same. Both seek reconsideration of the decision to deny eligibility for discounts available under the schools and libraries program to entities that are either private or state networks but not common carriers. WSDIS asks that the Commission revisit its definition of "advanced services" to include services whereby state networks integrate and add significant value to service elements acquired from carriers and other product and service providers or alternatively grant it a waiver of the definition of "telecommunications carrier" for purposes of the schools and library program.² SECA asks that wide area networks purchased or provided by states, schools or libraries be defined as "telecommunications services."³ The petitions are opposed by the United States Telephone Association, Bell Atlantic, and Ameritech. The RTC agrees with those commenters that petitioners are not "telecommunications carriers" and are not entitled to reimbursement from the fund by the terms of Section 254 (h)(1)(B) of the Act.

Section 254(h)(1)(B) states as relevant:

(B) EDUCATIONAL PROVIDERS AND LIBRARIES.-All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services ... at rates less than the amounts charged for similar services to other parties.

¹ Rural Telephone Coalition Reply of March 25 at 12 *In the Matter of Federal- State Joint Board on Universal Service*, CC Docket No. 96-45 (Report to Congress) DA 98-2.

² WSDIS Petition at 3.

³ SECA Petition at 5.

In its orders adopting rules for the schools and libraries program established under Section 254(h), the Commission determined that service providers will be eligible as "telecommunications carriers" to receive compensation for discounts if they operate as common carriers.⁴ The *Fourth Reconsideration Order* addressed at length the issue of the qualification of state networks for direct reimbursement from the support mechanisms for services provided at a discount to eligible schools and libraries. The Commission concluded that the state networks were consortia eligible to obtain discounts *on behalf of eligible schools and libraries* (emphasis added).⁵ However, except for Internet access and inside connections, state networks and entities that are not common carriers would not be eligible for direct reimbursement because they do not meet the definition of "telecommunications carrier." Specifically, the state networks were found not to offer telecommunications "for a fee directly to the public or to such classes of users as to be directly available to the public."⁶ The Commission's decision to limit discounts for telecommunications services provided by common carriers is correct and should not be disturbed. The RTC also believes that the Commission overstepped its authority in invoking nonexistent implied authority (under Sections 254(c)(3) and (h)(1)(B) and the broad goals of section 254(h)(2)(A))⁷ to extend universal service support for internal connections installed by

⁴ Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776 (1997) ("Universal Service Order"); *Fourth Order on Reconsideration*, FCC 97-240, Dec. 30, 1997 ("Fourth Order on Reconsideration").

⁵ *Id.*, para. 182.

⁶ *Id.*, para. 187.

⁷ Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776 (1997), ¶ 451.

non-carriers.

The Commission should deny the petitions of WSDIS, and SECA. Petitioners do not even contend that they meet the definition of a "telecommunications carrier." They have not shown that the Commission can ignore the mandate in Section 254 (h)(1)(B) that only telecommunications services provided by telecommunications carriers qualify for discount.

CONCLUSION

The Commission should deny the petitions of WSDIS and SECA.

Respectfully Submitted,

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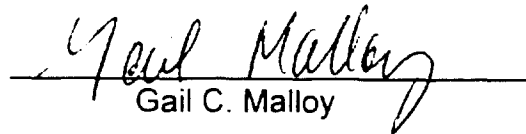
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April 6, 1998

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments to Oppositions to Petitions for Reconsideration of the Fourth Report and Order of the Rural Telephone Coalition in CC Docket No. 96-45, CC Docket Nos. 96-262, 94-1, 91-213 and 95-72 was served on this 6th day of April 1998, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:


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